

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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:
In re: : Chapter 11
: Case Nos. 00-_____
:
RANDALL'S ISLAND FAMILY GOLF : through 00-_____
CENTERS, INC., et al., :
: (Jointly Administered)
Debtors. :
:
- - - - - x

**INTERIM ORDER PURSUANT TO SECTIONS 361,
362, 363 AND 364 OF THE BANKRUPTCY CODE
AND RULE 4001 OF THE FEDERAL RULES OF
BANKRUPTCY PROCEDURE (I) AUTHORIZING THE
DEBTORS-IN-POSSESSION TO (A) OBTAIN
POSTPETITION FINANCING, (B) GRANT LIENS
AND PRIORITY ADMINISTRATIVE EXPENSE
STATUS, (C) MODIFY THE AUTOMATIC STAY,
AND (D) ENTER INTO FINANCING AGREEMENT;
(II) APPROVING IMTERIM USE OF CASH
COLLATERAL AND AUTHORIZING ADEQUATE
PROTECTION; AND (III) SCHEDULING FINAL
HEARING ON POSTPETITION FINANCING AND
USE OF CASH COLLATERAL AND APPROVING
FORM AND MANNER OF NOTICE OF SUCH FINAL
HEARING**

Upon the motion, dated May 4, 2000 (the "Motion"), of the above-captioned debtors and debtors in possession (each individually, a "Debtor" and, collectively, the "Debtors"), for authorization and approval, pursuant to sections 361, 362, 363 and 364 of title 11 of the United States Code (the "Bankruptcy Code") and Rule 4001 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for entry of an interim order (the "Interim Order") authorizing the Debtors to (i) obtain postpetition financing (the "Postpetition Financing") pursuant to the terms and provisions of that certain Postpetition Loan and

Security Agreement (as the same may be amended, supplemented or otherwise modified from time to time, the "DIP Loan Agreement"¹), by and among the Debtors and General Motors Employees Global Group Pension Trust and Department of Pensions-City of Los Angeles, investment advisory clients of Magten Asset Management Corp., and Pacholder Value Opportunity Fund, L.P., an investment advisory client of Pacholder Associates, and Dominic Chang, Chairman and Chief Executive Officers of the Debtors, and such other persons, firms or entities and/or their affiliates that may wish to join in as Lenders under the DIP Loan Agreement (collectively, the "Postpetition Lenders"), (ii) execute and deliver to the Postpetition Lenders the DIP Loan Agreement, substantially in the form annexed to the Motion as Exhibit A, and related documents, instruments and agreements; (iii) grant security interests, liens and priority administrative expense claims to the Postpetition Lenders pursuant to section 364(c) of the Bankruptcy Code, (iv) pay to the Postpetition Lenders the fees and other charges more fully set forth in the DIP Loan Agreement; (v) use the Cash Collateral (as defined below) of certain prepetition lenders of the Debtors; (vi) provide to the Chase Lenders (as defined below) adequate protection in the form of replacement liens to the extent that the use by the Debtors of their prepetition collateral (including Cash Collateral) results

1 Unless otherwise defined herein, all capitalized terms used herein have the meanings ascribed to such terms in the DIP Loan Agreement.

in a decrease in the value of the Chase Lenders' liens in that prepetition collateral; and (vii) provide to the prepetition lenders set forth on Exhibit D to the Motion (the "Non-Chase Lenders") adequate protection in the form of current interest payment of the contract rate to the extent that the use of their prepetition collateral (including Cash Collateral) results in a decrease in the value of the Non-Chase Lenders' liens in that prepetition collateral; and the Court having considered the Motion and the Exhibits attached thereto, including, without limitation, the DIP Loan Agreement; and in accordance with Bankruptcy Rule 4001, due and proper notice of the Motion and of the hearing with respect thereto having been given; and a hearing to consider approval of the relief requested in the Motion having been held and concluded on the date hereof (the "Interim Hearing"); and upon all of the pleadings filed with the Court and all of the proceedings held before the Court; and after due deliberation and consideration and good and sufficient cause appearing therefor,

IT IS HEREBY FOUND:

A. On May 4, 2000 (the "Petition Date"), the Debtors each commenced in this Court a case under chapter 11 of the Bankruptcy Code. The Debtors are continuing to operate their respective businesses and manage their respective properties as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

B. Pursuant to an Order of this Court dated as of the Petition Date, these chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered.

C. This Court has jurisdiction over this proceeding and the parties-in-interest and properties and interests in properties affected hereby under sections 157(b) (2)(A), (D), (M) and 1334 of title 28 of the United States Code (the "Judiciary Code"). Consideration of the Motion constitutes a core proceeding under section 157(b)(2) of the Judiciary Code.

D. Prior to the Petition Date, the Debtors and certain lenders parties thereto (the "Chase Lenders") entered into that certain Amended and Restated Credit, Security, Guaranty and Pledge Agreement, dated as of October 18, 1999 (the "Prepetition Credit Facility") pursuant to which the Chase Lenders provided the Debtors with a \$30 million revolving credit facility (to be converted into a term loan on December 29, 2000, after which time amounts which were to be repaid would not be reborrowed) and a \$100 million term loan, which financing the Debtors used to fund various construction projects and for working capital purposes. Under the Prepetition Credit Facility, the Chase Lenders were granted a security interest in certain of the Debtors' assets (subject to certain existing liens and other permitted encumbrances and excluding certain non-assignable assets), including, without limitation, real property, personal property, tangible property and intangible property, partnership and joint venture interests, all accounts, inventory and equipment. In

addition, the debtor Family Golf Centers Inc. pledged to the Chase Lenders all of the stock of its domestic subsidiaries and 66% of the stock of its foreign subsidiaries. The Chase Lenders are undersecured.

E. In addition to the Prepetition Credit Facility, the Debtors have a number of other loans outstanding to other Non-Chase Lenders of the Debtors that are secured by mortgages on several of the Debtors' properties. A list of the Non-Chase Lenders is attached to the Motion as Exhibit D. The Non-Chase Lenders are fully-secured.

F. On May 2, 2000, Chase, as agent on behalf of the Chase Lenders, sent the Debtors a notice of default and demand for acceleration of payment under the Prepetition Credit Facility (the "Chase Default Notice"). The Chase Default Notice notified the Debtors that their failure to make the payment of interest under the Prepetition Credit Facility that was due and payable on May 1, 2000 constituted an event of default. Further, the Chase Default Notice also advised the Debtors that, as a result of their failure to pay interest, an event of default had occurred with respect to the Debtors' convertible subordinated notes and the Debtors were not permitted to pay principal or interest on the notes.

G. In addition, on May 2, 2000, Bank of America N.A. ("BOA") sent the Debtors a notice of default and demand for acceleration of payment under its respective loan agreement with the Debtors (the "BOA Default Notice"). The BOA Default Notice

notified the Debtors that their failure to make the monthly payment of principal and interest that was due and payable on May 1, 2000 constituted an event of default. Further, the BOA Default Notice also advised the Debtors that a cross-default had occurred under the Prepetition Credit Facility with the Chase Lenders.

H. The ability of the Debtors to finance their respective operations through the availability to them of an alternative source of sufficient working capital through the incurrence of new indebtedness under the Postpetition Financing is in the best interests of the Debtors and their respective creditors and estates. It is also in the best interests of the Debtors, their creditors and their estates that the Debtors be permitted to utilize the Cash Collateral (as defined below) in the manner provided for herein.

I. The Cash Collateral of the Chase Lenders and the Non-Chase Lenders (whether existing before or after the Petition Date and including those amounts received, those due and unpaid and those that will be due hereafter) consists of "Cash Collateral" as defined under section 363 of the Bankruptcy Code.

J. The Debtors require the use of the Cash Collateral on an interim basis for postpetition day-to-day operating expenses and to avoid expenses associated with borrowing under the Postpetition Financing. The Debtors intend to use the Cash Collateral to, among other things, pay their employees and purchase new inventory in order to generate new receivables.

K. Pursuant to sections 361 and 363 of the Bankruptcy Code, the Debtors are required to provide adequate protection to the Chase Lenders and the Non-Chase Lenders in respect of the Debtors' use of the Cash Collateral. The Chase Lenders and the Non-Chase Lenders have been granted certain forms of adequate protection and other relief as further set forth below. The adequate protection arrangements authorized hereunder are fair and reasonable under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and are supported by reasonably equivalent value and fair consideration.

L. The Debtors have not waived their rights to challenge the validity, binding nature, first priority, extent, perfection, and enforceability of the liens and security interests of the Chase Lenders under the Prepetition Credit Facility, or any of the Non-Chase Lenders under their respective loan facilities, including any rights of the Debtors under sections 510(c), 544, 547, 548, 550, 553, 724 and 506(c) of the Bankruptcy Code.

M. Apart from the Debtors' use of the Cash Collateral, the Debtors' businesses also require the availability of a line of credit in order to provide for an alternative source of liquidity to finance the ordinary costs of their business operations. Without such line of credit, the Debtors may not have sufficient working capital to pay their direct operating expenses, effectuate their business plan and emerge from chapter 11.

N. The Debtors are unable pursuant to sections 364(a) or (b) of the Bankruptcy Code to obtain sufficient unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. Additional credit is unavailable to the Debtors without their (a) granting to the Postpetition Lenders claims having priority over that of administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code (other than the Carve-Outs (as hereinafter defined)), and (b) securing such loans and other obligations with liens on and security interests in all the assets, properties and interests in property of the Debtors as provided herein and in the DIP Loan Agreement.

O. The Postpetition Lenders have indicated a willingness to consent and agree to provide financing to the Debtors subject to (i) the entry of this Order, (ii) the terms and conditions of the DIP Loan Agreement, and (iii) a finding by the Court that such financing is essential to the Debtors' estates and is in good faith, and that the Postpetition Lenders' security interests, liens, claims, super-priority claims and other protections granted pursuant to this Order, the DIP Loan Agreement (and any other documents, instruments and agreements executed in connection with the DIP Loan Agreement) will not be affected by any subsequent reversal, modification, vacatur or amendment of this Order or any other order, as provided in section 364(e) of the Bankruptcy Code.

P. On May 2, 2000, the Postpetition Lenders delivered to the Debtors an executed commitment letter setting forth the terms and conditions of the Postpetition Lenders' provision of postpetition financing to the Debtors (the "Commitment Letter").

Q. The Debtors and the Postpetition Lenders negotiated the DIP Loan Agreement in good faith and at arm's length and any credit extended and loans made to the Debtors by the Postpetition Lenders shall be deemed to have been extended or made, as the case may be, in good faith within the meaning of section 364(e) of the Bankruptcy Code.

R. The terms of the DIP Loan Agreement are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties and are supported by reasonably equivalent value and fair consideration.

S. The entry of this Interim Order is in the best interests of the Debtors, their creditors and their estates and is necessary to avoid immediate and irreparable harm to the Debtors' estate.

T. The Debtors have provided telephonic or facsimile notice of the Motion and the terms of this Order to (a) the Office of the United States Trustee, (b) counsel for the Chase Lenders under the Prepetition Credit Facility, (c) United States Trust Company of New York, the Indenture Trustee under the 5¾% Convertible Subordinated Notes due October 15, 2000; (d) the Debtors' 20 largest unsecured creditors; (e) any statutory committee of unsecured creditors (or, if retained, its counsel)

if and when one is appointed; (f) any landlords (whose contact information currently is known to the Debtors) of the premises listed on Exhibit B to the Motion; and (g) all of the Non-Chase Lenders listed on Exhibit D to the Motion. In accordance with Bankruptcy Rule 4001, such notice is sufficient for all purposes under the Bankruptcy Code, including, without limitation, sections 102(1) and 364 of the Bankruptcy Code, and is appropriate, adequate and proper under the circumstances of these cases as set forth herein, in the Motion and as presented to the Court, and no other notice need be given for entry of this Order.

U. Subject to the Debtors' compliance therewith, the notice of the Final Hearing as hereinafter provided complies with the requirements of the Bankruptcy Code and the Bankruptcy Rules and no further notice is necessary or required under the circumstances.

V. Good, adequate and sufficient cause has been shown to justify the granting of the relief requested herein pending a final hearing on the Debtors' Motion.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. The Motion is granted.

2. The Debtors, be, and they hereby are, expressly authorized to execute and deliver the DIP Loan Agreement, and any and all documents, instruments and agreements delivered pursuant thereto or in connection therewith, and to perform their respective obligations thereunder in accordance with the terms thereof including, without limitation, the payment of all fees,

interest and other charges provided for therein. The DIP Loan Agreement be and it hereby is, approved by this Order and by this reference incorporated herein is part of this Order.

3. Upon execution and delivery, the DIP Loan Agreement and any and all documents delivered pursuant thereto will constitute valid, binding obligations of the Debtors, enforceable against each of the Debtors in accordance with their terms.

4. Each of the Debtors is expressly authorized and directed to take and effect all actions, to execute and deliver all agreements, instruments and documents and to pay all present and future fees, costs, expenses and taxes that may be provided for under or required or necessary for its performance under the DIP Loan Agreement, including, without limitation, the execution and delivery of the DIP Loan Agreement, the Promissory Note in substantially the form attached to the DIP Loan Agreement, and the performance of all of its obligations thereunder.

5. Pursuant to Section 364(c) of the Bankruptcy Code, contemporaneously with the execution of this Order by the Court, the Postpetition Lenders are hereby authorized to provide the Debtors with a \$4,000,000 line of credit until such time as a final financing order is entered herein. The DIP Loan Agreement provides that once a final order is entered herein, the Postpetition Lenders shall provide the Debtors with a line of credit in the aggregate amount of \$15,000,000; however, unless and until the Postpetition Lenders' security interests and liens

on the Canadian Assets are perfected to the satisfaction of the Postpetition Lenders and their counsel under applicable law, the line of credit shall be \$10,000,000. The Debtors may make a maximum of six (6) drawdowns under the DIP Loan Agreement, but not more than two (2) drawdowns in any month, each of which drawdowns shall be in a multiple of \$100,000, but not to exceed \$5,000,000, upon ten (10) business days notice to the Postpetition Lenders, provided, however, that no notice is required for the initial drawdown if such initial drawdown occurs within two (2) business days from and after the entry of this Order and, provided further, however, that such initial drawdown does not exceed \$4,000,000. The line of credit is to be used by the Debtors in accordance with the terms of the DIP Loan Agreement.

6. Contemporaneously with the execution of this Order by this Court, the Debtors are authorized and directed to pay the Postpetition Lenders the Closing Fee required under the DIP Loan Agreement and all other fees and charges required to be paid by the Debtors under the DIP Loan Agreement in the amounts and at the times provided for therein.

7. As security for the payment and performance of all obligations and liabilities of the Debtors to the Postpetition Lenders hereunder and under the Loan Documents (collectively, the "DIP Loan Obligations"), the Postpetition Lenders shall be, and hereby are, granted, effective immediately and without the necessity of the execution by the Debtors of financing

statements, mortgages, security agreements, or otherwise, in accordance with sections 364(c)(2) and (3) of the Bankruptcy Code, (a) a perfected first priority lien on certain fees, leasehold interests and concession interests for the properties listed on Exhibit B to the Motion, (b) a perfected first lien on all avoidance actions under sections 544 through 550 of the Bankruptcy Code, and (c) a perfected first lien and security interest in all of the other assets of each of the Debtors and their estates of every kind or type whatsoever, tangible, intangible, real, personal and mixed, whether now owned or existing or hereafter acquired or arising and regardless of where located, and including, without limitation, all property of the estates of each of the Debtors within the meaning of section 541 of the Bankruptcy Code, and all proceeds, rents and products of all of the foregoing and all distributions thereon (collectively, the "Collateral"), subject only to valid and perfected mortgage liens and other security interests and debt existing on the filing date of the related Debtor's chapter 11 petition, including the valid and perfected liens of the Chase Lenders and the Non-Chase Lenders (collectively, the "Permitted Liens") and the Carve-Outs (as defined below). Except as specifically provided above and elsewhere in this Order, the security interests and liens granted to the Postpetition Lenders shall not be made on a parity with, or subordinated to, any other security interest or lien of the Bankruptcy Code or otherwise.

8. Except as expressly provided in this Order, no expenses of administration of these chapter 11 cases or any future proceeding or case which may result therefrom, including, without limitation, liquidation in bankruptcy or other proceedings under the Bankruptcy Code, or other administrative claims, including, without limitation, fees and expenses of professionals, shall be charged against the Collateral or the Postpetition Lenders under section 506(c) of the Bankruptcy Code or otherwise.

9. The DIP Loan Obligations shall constitute, in accordance with section 364(c)(1) of the Bankruptcy Code, claims against each of the Debtors in their chapter 11 cases which are administrative expense claims having priority over any and all administrative expenses of the kind specified in sections 503(b), 506(c), 507(a) or 507(b) of the Bankruptcy Code, except that the DIP Loan Obligations shall be subject and subordinate to the Carve-Outs. Except for the Carve-Outs, no costs or administrative expenses which have been or may be incurred in the Debtors' chapter 11 cases or in subsequent cases under chapter 7 of the Bankruptcy Code as a result of a conversion pursuant to section 1112 of the Bankruptcy Code, and no priority claims, are or will be prior to or on a parity with the claims of the Postpetition Lenders with respect to the DIP Loan Obligations. Except for the Permitted Liens and the Carve-Outs, no other claim having a priority superior to or pari passu with that granted by this Order to the Postpetition Lenders shall be granted while any

portion of the DIP Loan Obligations is outstanding.

10. Notwithstanding the foregoing, the liens, security interests and superpriority claims granted to the Postpetition Lenders shall not be senior to or have priority over the following administration expenses not otherwise paid by the Debtor: the quarterly fees payable to the United States Trustee pursuant to 28 U.S.C. § 1930 (the "U. S. Trustee Carve-Out") and fees for professionals retained by the Debtor and/or the Creditors' Committee, if any, as allowed and approved by the Court upon proper application and notice in an amount not to exceed \$1,000,000 (the "Professional Carve-Out", and together with the U.S. Trustee Carve-Out, the "Carve-Outs").

11. The proceeds of the sale of any Collateral (except sales of inventory in the ordinary course of business and obsolete equipment) shall be placed in an interest bearing account as cash collateral (the "Account") for the obligations of the Debtors to the Postpetition Lenders. If and to the extent that the Chase Lenders or the Non-Chase Lenders assert that they have a lien position in any of the proceeds in the Account, such proceeds shall not be paid over to the Chase Lenders or the Non-Chase Lenders, as applicable, unless and until an order of this Court has been entered to the effect that the lien asserted by the Chase Lenders or the Non-Chase Lender, as applicable, is valid, perfected, binding and enforceable against the related Debtor; provided, however, that notwithstanding the foregoing, no Chase Lender or Non-Chase Lender may assert any claim to any of

the proceeds in the Account to the extent that such proceeds are from the sale of any of the interests listed on Exhibit B to the Motion.

12. The DIP Loan Obligations shall be due and payable in accordance with the DIP Loan Agreement.

13. The automatic stay provisions of section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit the Postpetition Lenders to implement the terms and provisions of the DIP Loan Agreement and the provisions of this Order.

14. The Postpetition Lenders shall not be required to file financing statements, mortgages, notices of lien or similar instruments in any country or jurisdiction or effect any other action to attach or perfect the security interests and liens granted under this Order or the DIP Loan Agreement.

Notwithstanding the foregoing, the Postpetition Lenders may, in their sole discretion, file such financing statements, mortgages, notices of lien or similar instruments or otherwise confirm perfection of such liens, security interests and mortgages without seeking modification of the automatic stay under section 362 of the Bankruptcy Code and all such documents shall be deemed to have been filed or recorded at the time and on the date of the commencement of the chapter 11 cases.

15. Upon the occurrence and during the continuance of any "Event of Default" under the DIP Loan Agreement, the DIP Loan Agreement shall be subject to termination in the sole discretion

of the Postpetition Lenders as provided therein, and upon five (5) business days prior notice by the Postpetition Lenders to the Debtors, the Committee, and the United States Trustee, the Postpetition Lenders shall have immediate relief from the automatic stay of section 362(a) of the Bankruptcy Code, without further order of the Court, to enforce, subject to the terms and provisions of the DIP Loan Agreement, their liens and security interests in any manner provided in the DIP Loan Agreement or herein, or otherwise to take any enforcement or remedial action provided by such agreements or applicable law.

16. Notwithstanding the occurrence of an Event of Default, the Maturity Date (i.e., the earlier of (i) the consummation of a plan of reorganization of any of the Debtors, (ii) eighteen (18) months from and after the first filing date of any of the Debtors' respective chapter 11 petition, and (iii) the occurrence of an Event of Default under the DIP Loan Agreements which continues unremedied beyond any applicable grace period) or any other provision contained herein, all of the rights, remedies, benefits and protections provided to the Postpetition Lenders under this Order and the DIP Loan Agreement shall survive the Maturity Date.

17. If it becomes necessary for the Postpetition Lenders, at any time, to exercise any of their rights and remedies hereunder, under the DIP Loan Agreement or under applicable law in order to effect repayment of the DIP Loan Obligations or to receive any amounts or remittances due in

connection therewith, including, without limitation, foreclosing upon and selling all or a portion of the Collateral, the Postpetition Lenders may, without further order of this Court, exercise such rights and remedies as to all or such part of the Collateral as the Postpetition Lenders may elect in their sole discretion, subject to the Postpetition Lenders having given five (5) business days prior notice to the Debtors, the Committee and the United States Trustee.

18. In the event the Postpetition Lenders foreclose on any of their liens in any leasehold or concession interest, notwithstanding any provision to the contrary in any lease or other agreement in connection with said leasehold or concession interest, the landlord or other applicable party shall recognize the Postpetition Lenders or their designees, successors or assigns as lessees or concessionaires under the respective lease or other agreement.

19. Nothing contained herein shall limit the rights of the Postpetition Lenders to (i) seek further relief from the automatic stay of section 362 of the Bankruptcy Code at any future time, (ii) request a conversion of any or all of the Debtors' chapter 11 cases to chapter 7 or the appointment of a trustee or an examiner under section 1104 of the Bankruptcy Code, or (iii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans in any or all of these chapter 11 cases.

20. The provisions of this Order shall be binding upon and inure to the benefit of the Postpetition Lenders, the Debtors, and their respective successors and assigns. This Order shall bind any trustee hereafter appointed for the estate of any of the Debtors, whether in the chapter 11 cases or in the event of the conversion of any chapter 11 case to a liquidation under chapter 7 of the Bankruptcy Code. Such binding effect is an integral part of this Order.

21. The DIP Loan Obligations will not be discharged by the entry of an order confirming a plan or plans of reorganization in the Debtors' chapter 11 cases.

22. Except as expressly permitted by the DIP Loan Agreement or this Order, the Debtors will not, at any time during these chapter 11 cases, grant mortgages, security interests or liens in the Collateral or any portion thereof to any other parties pursuant to section 364(d) of the Bankruptcy Code or otherwise.

23. Without limiting the rights of access and information afforded the Postpetition Lenders under the DIP Loan Agreement, each of the Debtors shall permit representatives, agents and/or employees of the Postpetition Lenders to have reasonable access to such entity's premises and its records during normal business hours (without unreasonable interference with the proper operation of the Debtors' businesses) and shall cooperate, consult with, and provide to such persons all such non-privileged information as they may reasonably request.

24. The obligations of the Debtors hereunder and under the DIP Loan Agreement shall be joint and several.

25. If any or all of the provisions of this Order or the DIP Loan Agreement or any other document delivered in connection herewith are hereafter modified, vacated, amended or stayed by subsequent order of this Court or any other court, such modification, vacatur, amendment or stay shall not affect the validity of any DIP Loan Obligations to the Postpetition Lenders that is or was incurred prior to the effective date of such modification, vacatur, amendment or stay, or the validity and enforceability of any security interest, lien or priority authorized or created by this Order, or the DIP Loan Agreement and, notwithstanding any such modification, vacatur, amendment or stay, any obligations of the Debtors pursuant to this Order or the DIP Loan Agreement or any other document arising prior to the effective date of such modification, vacatur, amendment or stay shall be governed in all respects by the original provisions of this Order and the DIP Loan Agreement and the other DIP Loan Agreement, and the validity of any such credit extended or security interest or lien granted pursuant to this Order or the DIP Loan Agreement or the other DIP Loan Agreement is subject to the protection accorded under section 364(e) of the Bankruptcy Code.

26. The Debtors may retain and are permitted to use the cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents (the "Cash"),

generated in the ordinary course of their businesses, including the Cash Collateral of the Chase Lenders and the Prepetition Lenders. Pursuant to section 105(a) of the Bankruptcy Code, the Debtors are permitted to use the Cash and Cash Collateral on an emergency basis, until the entry of a subsequent order of this Court, to be considered at the Final Hearing.

27. In order to adequately protect the asserted liens and interests of the Chase Lenders in the Debtors' assets, the Chase Lenders shall be granted a replacement lien, to the extent that the use by the Debtors of the Chase Lenders' prepetition collateral (including Cash Collateral) results in a decrease in the value of the Chase Lenders' liens in that prepetition collateral, in the form of a first priority lien on, and security interest in, the same type of property of the Debtors that presently secures any valid and perfected first priority prepetition liens and security interests of the Chase Lenders (the "Adequate Protection Lien"). The Adequate Protection Lien shall be deemed valid and perfected without the necessity for the execution, delivery, filing or recordation of any further documentation.

28. In order to adequately protect the asserted liens and interests of the Non-Chase Lenders in the Debtors' assets, to the extent that the use by the Debtors of the Non-Chase Lenders' prepetition collateral (including Cash Collateral) results in a decrease in the value of the Non-Chase Lenders' liens in that prepetition collateral, the Debtors will continue to make all

current interest payments at the contract rate to the Non-Chase Lenders under the terms of their respective loan agreements with the Debtors.

29. Nothing in this Order shall (i) constitute a determination of the validity, binding effect, perfection or enforceability of any liens or security interests granted to the Chase Lenders or the Non-Chase Lenders prior to the Petition Date, or (ii) prohibit or otherwise limit the right of the Debtors, any official unsecured creditors committee or committees, if appointed, or any bankruptcy trustee for the Debtors from seeking to avoid or otherwise challenge the validity, binding effect, extent, value, priority, enforceability and/or perfection of any such liens or security interests.

30. To the extent that any cash contained in the Debtors' bank accounts with the Chase Lenders or any of the Non-Chase Lenders constitutes Cash Collateral, the Chase Lenders and the Non-Chase Lenders are hereby directed to pay such amounts to the Debtors for their use in accordance with the terms of this Order.

31. A final hearing on the Motion, pursuant to Bankruptcy Rule 4001, shall be held by the Court on _____ at __:__ .m. in Courtroom _____, United States Bankruptcy Court, Alexander Hamilton Customs House, One Bowling Green, New York, New York 10004. Service of this Order, the Motion and the exhibits annexed thereto, by the Debtors upon (a) the Office of the United States Trustee, (b) counsel for the

Chase Lenders, (c) United States Trust Company of New York, the Indenture Trustee under the 5¾% Convertible Subordinated Notes due October 15, 2000; (d) the Debtors' 20 largest unsecured creditors; (e) any statutory committee of unsecured creditors (or, if retained, its counsel) if and when one is appointed; (f) any landlords (whose contact information is currently known to the Debtors) of the premises listed on Exhibit B to the Motion; (g) all of the Non-Chase Lenders listed on Exhibit D to the Motion; (h) the United States Attorney for this judicial district; (i) the Securities and Exchange Commission; and (j) all parties-in-interest that have filed requests for notice in these cases shall constitute good and sufficient notice thereof.

32. Objections, if any, to the relief sought in the Motion shall be in writing, shall state with particularity the grounds for such objections and shall be filed with the Clerk of the Bankruptcy Court, and served upon (a) Fried, Frank, Harris, Shriver & Jacobson, One New York Plaza, New York, New York 10004 (Attn: Ira S. Sacks, Esq.); (b) Winick & Rich, P.C., 919 Third Avenue, New York, New York 10022 (Attn: Jeffrey Rich, Esq.); and (c) Morgan, Lewis & Bockius LLP, 101 Park Avenue, New York, New York 10178 (Attn: Richard Toder, Esq.), respectively, so that they are delivered on or before _____, 2000.

33. This Order constitutes findings of fact and conclusions of law and takes effect and becomes enforceable immediately upon execution hereof.

Dated: New York, New York
May __, 2000

UNITED STATES BANKRUPTCY JUDGE

330688